

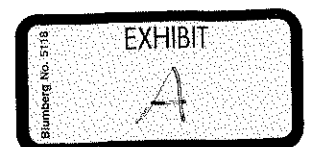
IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

**ORIGINAL**

HENRY L. WILLIAMS, :  
Plaintiff, :  
vs. : CASE NO. C-1-02-533  
MILTON CAN COMPANY, INC., :  
and BWAY MANUFACTURING, :  
INC., :  
Defendants. :

Deposition of HENRY L. WILLIAMS, a witness  
herein, taken by the defendants as upon  
cross-examination pursuant to the Ohio Rules of  
Civil Procedure, and pursuant to notice and  
stipulations hereinafter set forth, at the  
offices of Casper & Casper, 119 East Court  
Street, Cincinnati, Ohio, at 10:00 a.m., on  
Thursday, October 30th, 2003, before Kelly Green,  
RPR, a Notary Public within and for the State of  
Ohio.

On-Time Reporting  
8739 Landen Drive  
Maineville, Ohio 45039  
(513) 677-6188



1 A. Right.

2 Q. And you continued to drive your car?

3 A. Right.

4 Q. And since that time, your Ohio  
5 driver's license has never been suspended?

6 A. No.

7 Q. And you mentioned you were licensed  
8 to operate a forklift truck. Is that through  
9 BWAY?

10 A. Yes. Well, it wasn't through BWAY.  
11 It started out through Heekin.

12 Q. And Heekin owned the plant that BWAY  
13 now owns?

14 A. Yes.

15 Q. I understand that you used to be a  
16 boxer?

17 A. Yes.

18 Q. What can you tell me about that?

19 A. My career started when I was 16, and  
20 I was pretty good in local -- I won the  
21 championship in the city about five times, and I  
22 won the nationals once.

23 Q. Is this all as an amateur?

24 A. Yes. I had over 300 fights. That's

1 A. Okay.

2 Q. Can you tell me about your  
3 employment history, starting with the first place  
4 that you worked full-time?

5 A. First place I worked was Dunham  
6 Hospital.

7 Q. How do you spell that for me?

8 A. Dunham, D-U-N-O -- I mean N-O-T or  
9 something. Dunham Hospital. That's what it was.

10 Q. And what did you do there?

11 A. I worked in the storeroom.

12 Q. How long did you work there?

13 A. I worked there for about three  
14 years. I quit that job, more or less -- I met  
15 the Heekins, and they -- it was -- I met them at  
16 a banquet, and they offered me a job, more or  
17 less, and I went to work for them in 1969.

18 Q. So your first job after high school  
19 -- your first full-time job was working at the  
20 hospital in the storeroom?

21 A. Right.

22 Q. And then you met the Heekins at a  
23 banquet, and they offered you a job, and you  
24 started working at the Heekin...

1                   A.     Downtown plant. I worked downtown  
2     for about three -- two months in '99, and then  
3     they --

4                   Q.     In 1969?

5                   A.     '69. Then they told me I wasn't  
6     supposed to be there. I was supposed to be at  
7     the plant in Newtown.

8                   Q.     And were you eventually moved to the  
9     plant in Newtown?

10                  A.     Yes. I went to Newtown, and I  
11     started work out there.

12                  Q.     The first couple months you worked  
13     at the downtown plant, what did they have you  
14     doing down there?

15                  A.     I worked at hand assembly.

16                  Q.     What were you supposed to do in hand  
17     assembly?

18                  A.     Well, just mainly worked on large  
19     cans and coolers.

20                  Q.     What was your job; what were you  
21     supposed to do; do you recall?

22                  A.     Well, I done things like put the  
23     cans together as well as stack the cans and stuff  
24     like that and put them on an elevator, and it was

1 almost like they had a hand truck that I would  
2 put them on the elevator with.

3 Q. When you went to the Newtown plant,  
4 what did they have you doing there?

5 A. Hand assembly. That's more or less  
6 what I just told you.

7 Q. So the same thing you did at the  
8 downtown plant you did at the Newtown plant?

9 A. Oh, at the Newtown plant? No. The  
10 first job I had at the Newtown plant, I was  
11 working -- a can line examiner. They had two big  
12 ovens that they had guys sitting on; and the cans  
13 would run through the oven, and I would pick out  
14 the bad cans and stuff like that. I done that  
15 for about two to three years. Then I bid on  
16 another job they had as a seamer feeder.

17 Q. The plant in Newtown, is that on  
18 Broadwell Road?

19 A. Yes, it is.

20 Q. So you worked as a can line examiner  
21 for two to three years, and then you bid on a job  
22 as seamer feeder?

23 A. Yes.

24 Q. And did you get that position?

1 A. Yes.

2 Q. What's a seamer feeder; what do they  
3 do?

4 A. A seamer feeder was the guy that put  
5 the ends on the can.

6 Q. What type of cans were you working  
7 with at this time?

8 A. At this time, I was working on  
9 aerosol cans as well as dog food cans and people  
10 food.

11 Q. Like soup cans?

12 A. Soup cans. Well, they manufactured  
13 every can you could think about, you know, back  
14 then.

15 Q. And how long were you a seamer  
16 feeder?

17 A. I done that job for about four or  
18 five years.

19 Q. What was the next position that you  
20 held?

21 A. (No response.)

22 Q. I assume you're still at BWAY?

23 A. Yes.

24 Q. Or Heekin?

1 A. Yes.

2 Q. Or Milton or whatever name --

3 A. Heekin.

4 Q. -- it went by at the time --

5 A. Yes.

6 Q. -- you're still at the same

7 location?

8 A. Right. One year I went into  
9 cleanup, more or less. It was more money.

10 Q. What did you do in cleanup; what  
11 were some of your job responsibilities?

12 A. Just more or less clean up around  
13 the body makers and keep the whole area clean as  
14 far as cleaning the grease and stuff like that  
15 off the floor and stuff like that.

16 And then I went to another job  
17 pertaining to quality control, salvage. I worked  
18 in salvage for about three years. Then I bid on  
19 the trucks from there.

20 Q. So if I understand your history, you  
21 cleaned for about a year, and then you went to  
22 quality control?

23 A. Yeah. It was --

24 Q. How long were you in quality

1 control?

2 A. Three years. About three years.

3 Q. What did they have you do in quality  
4 control?

5 A. More or less if they had any  
6 products and stuff like bad cans, stuff like  
7 that, I would go out and -- you know, I would go  
8 out with another -- their employees to look at  
9 bad cans and stuff like that and sort through  
10 them as well as pick them out at the plant.

11 Q. And then the next position, you were  
12 in salvage, or is that part of --

13 A. That's part of salvage.

14 Q. -- quality control?

15 A. Right.

16 Q. And at that point, you'd been on the  
17 trucks?

18 A. Yeah, I've been on trucks.

19 Q. These are forklift trucks that  
20 you're bidding on?

21 A. Yes.

22 Q. And you wanted to drive one of the  
23 forklift trucks?

24 A. Yes.



1 Q. Do you recall what year this might  
2 have been?

3 A. I can't say.

4 Q. Do you recall how old you were when  
5 you bid on the forklift truck?

6 A. Man, you're talking... I'm 55 now.  
7 Just to say the date, you know, everything is  
8 kind of -- I couldn't tell you, you know, I  
9 couldn't just say -- give a fair...

10 Q. When you bid on the forklift truck  
11 job, did you get it?

12 A. Yes, I did.

13 Q. Any other jobs since that time?

14 A. (No response.)

15 Q. Any other positions in the plant  
16 besides driving the forklift?

17 A. What are you talking about? After?  
18 Then I went to the coil room. It's a place where  
19 they have these big coils, and you cut them up.

20 Q. Back to the forklift truck job, what  
21 was your job duties there; what were you supposed  
22 to do?

23 A. I unloaded trucks. At one time, the  
24 company had -- they didn't have individual people

1 just driving the trucks. They had just consigned  
2 one group of people to be truck drivers. Do you  
3 understand what I'm saying?

4 And then, you know, I'm saying that  
5 they didn't -- say a guy, if he ran a seamer or  
6 something like that, he couldn't get up on the  
7 truck.

8 Q. So if I understand you correctly --  
9 and, please, correct me if I'm wrong here -- at  
10 this time, they have forklift operators, and  
11 that's their only job is to operate the  
12 forklifts?

13 A. Right.

14 Q. And if you work on a seamer feeder  
15 or some other piece of equipment, you're not  
16 allowed to get up on the forklift?

17 A. Right.

18 Q. You have to wait for a forklift guy  
19 to come and do the forklift part of your job?

20 A. Right.

21 Q. So at this time, you were the one  
22 who was driving the forklift?

23 A. Yes.

24 Q. And how long did you do that

1 A. Luther Smith.

2 Q. How long was Luther Smith your  
3 supervisor in the coil room?

4 A. Luther held the position for about  
5 seven years.

6 Q. Do you recall how long you were in  
7 the coil room?

8 A. About seven years.

9 Q. So the entire time you were in the  
10 coil room, you had just two supervisors?

11 A. Yes.

12 Q. Luther Smith, and then this person,  
13 Ell?

14 A. Yes.

15 Q. Was Luther Smith -- was he the day  
16 shift supervisor?

17 A. Yes.

18 Q. And Ell was also a day shift  
19 supervisor?

20 A. Yes.

21 Q. Any relatives employed by BWAY  
22 during your tenure there?

23 A. No.

24 Q. Mr. Williams, what did you do in the

1 coil room; what was your job there?

2 A. I was the operator. I more or less  
3 cut metal up and stuff like that and band them up  
4 and put them in the certain area for the people  
5 that coated the plate.

6 Q. I'm still not sure exactly what you  
7 would do.

8 A. What I would do?

9 Q. Yes. What would you do in the coil  
10 room as the operator? Would these big bands of  
11 coil metal come into the plant?

12 A. Yeah, big cans of -- big rolls of  
13 coil.

14 Q. This is coil steel?

15 A. Yes -- will come in, and I would --  
16 if the truck driver wasn't around, sometimes I  
17 would put them on the spool, you know, stuff like  
18 that.

19 Q. And the spool helps feed --

20 A. Feed the coil.

21 Q. -- the roll of coil to a machine?

22 A. Right. I would take the sheet and  
23 thread it through the machine, and I would set up  
24 the cut and stuff like that. You know, like

1 someone else from another department come and  
2 collect them?

3 A. We would take them to an area that  
4 -- you know, that -- well, a truck driver would  
5 pick them up, and we'd take them to the area  
6 sometimes for the truck driver; but the truck  
7 driver would put the load away for us, you know,  
8 give them to Plant 9 so they can code them.

9 Q. Would you ever have occasion to  
10 operate a forklift truck to move those pieces of  
11 stamped metal to where they needed to be, Plant 9  
12 or whatever?

13 A. I've did it, yes, I have.

14 Q. What type of fork lift truck would  
15 be used to move those cut pieces? Would it be a  
16 30-pound truck or a smaller --

17 A. A smaller forklift.

18 Q. It would be a 5,000- or 10,000-pound  
19 truck?

20 A. I'm not sure about the weights on  
21 the truck, but...

22 Q. How often would you help out and  
23 would you do that part of it where you actually  
24 physically move these stamped pieces of metal

1 help make the plant safe, you know.

2 Q. Did you ever offer any suggestions  
3 to the safety committee to make the plant more  
4 safe?

5 A. No, I didn't make any suggestions,  
6 no.

7 Q. Did you ever take any issues to the  
8 safety committee?

9 A. No.

10 Q. Are you aware of the grievance  
11 process that's in place with the Steel Workers  
12 Union there at BWAY?

13 A. Come again?

14 Q. Are you aware of the grievance  
15 process -- the grievance procedures?

16 A. Yes.

17 Q. Have you ever filed any grievances  
18 before?

19 A. Yes.

20 Q. Or any grievances filed on your  
21 behalf, I should say?

22 A. Yes.

23 Q. What were some of those for; do you  
24 recall any of those?

1           A.     Been mainly pertaining to me and my  
2     job or something like that as far as getting a  
3     job. I had a hard time trying to -- at one time,  
4     they had -- it was a colored thing, you know.

5           Q.     So you thought you were being  
6     discriminated against at one time?

7           A.     Yes.

8           Q.     And you filed a grievance related to  
9     that?

10          A.     I filed a grievance related to that,  
11     right.

12          Q.     Was there anybody that was treating  
13     you unfairly or that you thought was treating you  
14     unfairly, any particular individual?

15          A.     Well, yeah. I didn't -- I thought  
16     the company was treating me unfair, and they  
17     corrected that by giving me that job.

18          Q.     So it was the company as a whole; it  
19     wasn't any particular individual?

20          A.     Every job I've -- I'd say, not every  
21     job, but the jobs that mounted up to money and  
22     stuff like that, I think I had a hard time.

23                 The guys would -- didn't want me to  
24     have -- like the forklift job, it carried more

1       you know, he knew where I was coming from, and I  
2       was still working and stuff like that. So it  
3       kind of worked out, and he became an all right  
4       foreman.

5               Q.       So there was no animosity between  
6       you and Mr. Smith in 2000?

7               A.       No.

8               Q.       So whatever differences you had with  
9       him, you'd worked them all out?

10              A.       Yes.

11              Q.       Recall any other grievances that you  
12       might have filed besides those two?

13              A.       I'm sorry, sir. I just...

14              Q.       Just to the best of your  
15       recollection. There may be something you forgot  
16       about, and that's fine, but just to the best of  
17       your recollection.

18              A.       I don't recall. There might have  
19       been some things that happened along the way that  
20       I filed a grievance on. You know, it wasn't  
21       anything like -- I didn't have conflict with some  
22       people out there.

23              Q.       Could you file a grievance for  
24       safety concerns, things involving safety?



1 Q. The 30-pound trucks on the coil room  
2 side?

3 A. Right. And the large trucks would  
4 take a different amount of gas, you know, to  
5 run. You know, they would -- and a bigger tank.

6 Q. How many times have you changed the  
7 tank on a forklift truck?

8 A. (No response.)

9 Q. Hundreds?

10 A. Just -- I would say hundreds, right.

11 Q. Just so I'm clear on the chronology  
12 of your history of work at BWAY, were you in the  
13 fork truck driving corps -- were you there for 16  
14 years, and then you were in the coil room for an  
15 additional seven years?

16 A. Yes.

17 Q. So you spent 16 years just driving a  
18 fork truck?

19 A. Yes.

20 Q. And then when you were in the coil  
21 room, you would work the machines, being an  
22 operator, and you would occasionally drive the  
23 trucks?

24 A. Yes. Now, I'm not quite sure. It

1 Q. -- on regular days?

2 A. Right.

3 Q. There may be more pedestrian  
4 activity around the plant?

5 A. Right.

6 Q. With people going around and  
7 counting?

8 A. Right.

9 Q. And most of the fork trucks are idle  
10 that day?

11 A. Most of them are. Just the ones  
12 that -- say you have to pick up a load and get a  
13 count on the product, might be mixed up or  
14 something like that.

15 Q. You might have to move a load to get  
16 to another load --

17 A. Right.

18 Q. -- to inventory that load?

19 A. Right.

20 Q. When did you arrive that day; do you  
21 recall what time you started work?

22 A. I started about -- I started at  
23 7:00.

24 Q. 7:00 in the morning?

1                   A.     Yes, and everybody met in the  
2     cafeteria.

3                   Q.     That was your normal starting time  
4     that day; is that what time you're supposed to  
5     work?

6                   A.     Yes.

7                   Q.     How long were you supposed to be  
8     there that day?

9                   A.     I wasn't aware of how long I was  
10    going to be there. Usually, sometimes it ends  
11    fast. It depends on how things run, you know.  
12    If we can get everything out, you know, all the  
13    counts and everything, you know, sometimes we can  
14    leave early. You know, sometimes we work late.

15                  Q.     Is there an incentive program for  
16    inventory day; is there like incentive pay, or do  
17    you get anything extra that you wouldn't normally  
18    get?

19                  A.     Yes. It's like overtime.

20                  Q.     And when you met in the cafeteria,  
21    who met there?

22                  A.     All the guys working -- majority of  
23    them were company personnel, and they were  
24    discussing things like, well, pizza. Pizza was a

1       -- my job was over in the coil room, and Ralph  
2       came and asked me did I want to work.

3               Q.       I understand.

4               A.       So I volunteered.

5               Q.       I'm just now talking about inventory  
6       day.

7               A.       I apologize.

8               Q.       I'm talking about inventory day.

9               A.       Do I work with them people all the  
10      time?

11              Q.       No, no. The question was, that day,  
12      were you assigned to work with Allen -- were you  
13      assigned to work with him just that day counting  
14      inventory?

15              A.       Right.

16              Q.       Was there anyone else you were  
17      assigned to work about with besides Allen?

18              A.       There was another guy there, but I  
19      can't say. I want to say Wink. They called this  
20      guy Wink, but I don't know. And Jeff might have  
21      been there.

22              Q.       So your group was assigned to a  
23      certain part of the plant to inventory?

24              A.       Well, what I was doing was the plate

1       they had in assembly.

2               Q.       So it was your responsibility, along  
3       with maybe some other folks, to count the plate  
4       in the assembly area?

5               A.       Right.

6               Q.       Where is the plate kept in the  
7       assembly area? You mentioned before the  
8       restrooms. Where in relation to the restrooms  
9       was the plate?

10              A.       The plate was... it was kept in an  
11       area up front of the body makers. By the body  
12       makers, I mean, machinery. They had the plate on  
13       the side of them. Say like you had -- this one  
14       machine might have ran a certain size plate, then  
15       you had another machine might have had a run on  
16       another size plate; and all this plate was parked  
17       up in the front of the machine. (Indicating.)

18              Q.       So if I'm walking out of the  
19       restroom, that's in front of me, right?

20              A.       If you're walking out of the  
21       restroom, you wouldn't see this. (Indicating.)

22              Q.       Would I have to walk forward or  
23       would I have to --

24              A.       This was -- okay. You got a piece

1 A. Right.

2 Q. You then walk back and, presumably  
3 with your group of people, you go back to the  
4 plate area where the plate is kept, correct?

5 A. Right.

6 Q. And then you start inventorying the  
7 plate, correct?

8 A. Right.

9 Q. At what point did you need to use  
10 the forklift; was it right away as soon as you  
11 got there?

12 A. Well, yeah. It was -- you know, we  
13 was supposed to count -- pick up a load, and I  
14 didn't want to go and just go ahead and pick up  
15 that load and run out of gas.

16 Q. So as soon as you got back there,  
17 you saw that you were going to need to use a fork  
18 truck, right, as soon as you got back to this  
19 area?

20 A. Yeah. I knew we was going to have  
21 to use a forklift to move the loads from up --  
22 you know, say you got a load stacked on top of  
23 loads, and you have to lift them up to count the  
24 loads, you know. Sometimes you have to -- you

1 know, you couldn't get to the ticket, you know,  
2 on the load.

3 Q. Did you start using the fork truck  
4 before you went to go refuel it; did you start  
5 using it?

6 A. I started using it, right.

7 Q. So you started using the fork truck  
8 to move loads around?

9 A. Right.

10 Q. You were using it for a while, and  
11 then noticed that it needed to get refueled?

12 A. There was a red light that comes on  
13 that gives you so many seconds before you get to  
14 the...

15 Q. Before it stops?

16 A. Yeah, before it cuts off.

17 Q. So you're here with your group of  
18 people. Are you the only one using the fork  
19 truck that morning or are you taking turns?

20 A. At that time, I was the only one  
21 using it, right. Yeah, I guess they had other  
22 forklifts there that guys were using.

23 Q. There were other forklifts in this  
24 area, too?

1 A. Right.

2 Q. Was Allen using a forklift truck,  
3 Allen Artis?

4 A. No.

5 Q. He was working with you --

6 A. He was working with me.

7 Q. So when you first arrived on the  
8 scene, did you inspect this fork truck to make  
9 sure everything worked when you first got there?

10 A. When I first got there, I wasn't --  
11 I wasn't -- this is not an area that I worked in  
12 all the time, you know.

13 Q. Right.

14 A. I just more or less, you know, knew  
15 we was gonna have to use the forklift, you know.

16 Q. I understand.

17 A. When I got out on the forklift to  
18 move the load and the light came on, so I said  
19 I'm going to get some gas for the forklift.

20 Q. How long were you using the forklift  
21 truck before the light came on?

22 A. We wasn't using it.

23 Q. So it came on right away?

24 A. Right.



1 Q. Did any member of management know  
2 that you were going take that fork truck and take  
3 it to be refueled?

4 A. No.

5 Q. Did you proceed directly to the fuel  
6 storage area?

7 A. Right.

8 Q. You didn't make any stops anywhere?

9 A. No, because if I did, I probably  
10 would have been carrying something.

11 Q. Any reason why you went to that  
12 particular storage rack as opposed to the one in  
13 the coil room or the other ones that were in the  
14 plant?

15 A. Because it was closer.

16 Q. And that was your decision, to use  
17 the closest one?

18 A. Yes.

19 Q. No one told you to use that  
20 particular storage rack to refuel the fork truck?

21 A. Well, it would just be the way that  
22 they had the situation where assembly -- that's  
23 what assembly used all the time. They didn't go  
24 over to the coil room and use ours.

1 Q. So since you were over in assembly,  
2 you decided to use the storage rack that was in  
3 assembly?

4 A. Right.

5 Q. Were you on any medications that  
6 day?

7 A. No.

8 Q. Had you drank any alcohol that day?

9 A. No.

10 Q. Had you used any alcohol or drugs  
11 within the 24-hour period prior to the accident?

12 A. I never took a drink in my life.

13 Q. What about glasses; do you wear  
14 glasses?

15 A. No.

16 Q. Contacts?

17 A. No.

18 Q. Any health problems that day?

19 A. No.

20 MR. ALLEN: Before he got crushed?

21 Q. Did you see Bob Francia at all on  
22 your way from this area here to the door?

23 A. No.

24 Q. Did you know Bob Francia?

1 A. Yes.

2 Q. Did you ever see him operate a fork  
3 truck?

4 A. Other than driving in that area that  
5 they were assigned to, that area they call  
6 salvage, I seen him drive over in there.

7 Q. Did you ever see any unsafe  
8 operation on his part?

9 A. I can't say I did, no.

10 Q. Did you ever see any accidents  
11 involving Mr. Francia with his fork truck?

12 A. No.

13 Q. What about any near misses; any near  
14 misses?

15 A. No.

16 MR. ALLEN: Same question, see or  
17 heard about?

18 Q. See. Did you witness any?

19 A. Did I witness any? No.

20 Q. Did you have any concerns about Mr.  
21 Francia's driving based on your personal  
22 observations of Mr. Francia's driving?

23 A. No, I didn't.

24 Q. Any discussions with anyone at the

1                   Q.     Mr. Williams, you were kind enough  
2     to draw for us a very nice diagram of how your  
3     fork truck was located while you were out  
4     attempting to refuel your fork truck. We'll go  
5     ahead and mark this as Exhibit 15.

6                   (Defendants' Exhibit No. 15 was marked  
7     for identification.)

8                   A.     You've got that upside down.

9                   Q.     So if I understand correctly, your  
10    fork truck is parked besides the L.P. storage  
11    rack?

12                  A.     Right.

13                  Q.     And your forks are pointed towards  
14    the --

15                  A.     Towards the -- like, this is -- this  
16    is, you know, where the ramp is at going down the  
17    ramp. (Indicating.)

18                  Q.     So your forks are pointed towards  
19    the dumpster?

20                  A.     Right.

21                  Q.     And the counter weight is pointed  
22    towards the railroad tracks, correct?

23                  A.     Right.

24                  Q.     And you're more diagonal than you

1 A. (Witness complies.)

2 Q. Put a 4 here next to the door, the  
3 little door.

4 A. (Witness complies.)

5 Q. Kind of take me through the process  
6 of what you were doing and then what happened  
7 next.

8 A. I took the gas tank off of the rack,  
9 and I was starting to put the tank -- screw the  
10 tank -- the nozzle onto the truck attachment for  
11 putting the gas on. I done that.

12 I started -- well, as soon as I  
13 started doing that, (indicating) somebody hit  
14 me. Bob hit me and pressed me up against this  
15 area here (indicating).

16 Q. Where were you at when Bob's fork  
17 truck hit you? If you could, just draw a stick  
18 figure of you.

19 A. (Witness complies.)

20 Q. Are you between the cage and the  
21 fork truck?

22 A. No.

23 Q. You were directly behind the fork  
24 truck?

1 A. I'm exactly where she's typing at.

2 Q. You're exactly where the court  
3 reporter is?

4 A. Right.

5 Q. And did you at any point do anything  
6 between the rack and your fork truck in this  
7 area?

8 A. No, other than walk over there and  
9 then walk behind the forklift and put the tank  
10 on.

11 Q. I guess you took off the old tank  
12 first? Is that what you did first?

13 A. Right.

14 Q. Which side are you on; are you on  
15 the side closest to the cage or away from the  
16 cage or right behind it?

17 A. I'm on this side (indicating).

18 Q. And you take it off?

19 A. Right, and I put the empty tanks on  
20 the same rack.

21 Q. And then you take a new tank out,  
22 and you start putting the new tank on?

23 A. Right.

24 Q. Had you finished putting the new

1 was my pelvis area, you know, when he broke my  
2 pelvis.

3 Q. Before the impact, did you hear his  
4 fork truck at all coming up?

5 A. No.

6 Q. Did you see his fork truck at all --

7 A. No.

8 Q. -- either picking up a load or  
9 dropping off a load or coming around the corner?

10 A. No.

11 Q. Did you hear the backup alarm?

12 A. No.

13 Q. And his fork truck was pointed away  
14 from you, correct, so he would have been backing?

15 A. Right. He was backing.

16 Q. What part of his fork truck struck  
17 what part of your body?

18 A. His back end of his forklift.

19 Q. The counter weight part?

20 A. Right, the counter weight pressed me  
21 up against my counter weight.

22 Q. Were you standing straight up  
23 whenever his fork truck hit you?

24 A. When he jolted me, I went for my

1        hat, and it moved me this way. And this is how I  
2        was (indicating). I was telling him get back on  
3        the forklift. Move the forklift. And he says,  
4        I'm going to get help. I'm going to get help.

5                I said, Bob, move the forklift, move  
6        the forklift; and he just went off. And then I  
7        don't -- I'm -- I have so many concepts of who  
8        moved the forklift off of me. The last two  
9        people I saw going out the door were Noe and his  
10       wife. They was sitting there doing something.

11              Q.        When you were first on the dock  
12       here, was there anybody around you?

13              A.        No, nobody.

14              Q.        So there was no one out there but  
15       you?

16              A.        No.

17              Q.        And then Bob's --

18              A.        They tell me today they don't know  
19       who moved the forklift off me. It's like I  
20       hear it was Ralph, and then all of a sudden, no,  
21       he didn't do it. And I thought it was Noe for a  
22       long time, and I had a lot of animosity towards  
23       him, and I grew real fond of him. I fell in love  
24       with Noe.



1 know...

2 Q. Are you aware of anyone being  
3 injured in this particular location, any injury  
4 at all, someone injured right out here in this  
5 dock area next to the storage rack?

6 A. No.

7 Q. In the 31 years you worked there,  
8 anyone injured at this site?

9 A. No.

10 Q. Are you aware of any complaints  
11 about visibility in this area, that people had a  
12 hard time seeing around this corner or around the  
13 other corner?

14 A. No.

15 Q. Did you ever complain about  
16 visibility in this area the times you went  
17 through there?

18 A. No, I haven't.

19 (Defendants' Exhibit No. 14 was marked  
20 for identification.)

21 Q. Let me go ahead and show you what  
22 we'll mark as Defendant's Exhibit 14, slightly  
23 out of order. Can you identify what's depicted  
24 in this photograph for me?

1                   complained about.

2                   A.       I don't know about that. They might  
3 have; but like I said, the rack isn't there  
4 anymore. That isn't the rack that was there.

5                   Q.       Let's assume, for instance, that's a  
6 different rack that was there in 2000 than the  
7 rack that's depicted in Exhibit 12. Are you  
8 aware of any employees who complained about the  
9 rack being there at this location?

10                  A.       No.

11                  Q.       Are you aware of any safety concerns  
12 raised by anybody about the location of this  
13 storage rack or at least the one that existed in  
14 2000?

15                  A.       No.

16                  Q.       Are you aware of anyone being  
17 injured while in the process of changing their  
18 fuel tank?

19                  A.       No.

20                  Q.       Are you aware of any complaints to  
21 management about the refueling process at all,  
22 any complaints whatsoever about refueling the  
23 fork trucks?

24                  A.       At one time, I was aware of -- that

1 -- they had a thing where they refueled the tanks  
2 themselves and that the company had some tanks on  
3 the side, and I was aware of that. This is when  
4 I -- around the 70's.

5 Q. Were those complaints, though, or  
6 were they just different procedures?

7 A. It was just a maintenance man that  
8 filled the tanks up and stuff like that, and then  
9 they start leasing it out. You know, the guys  
10 would bring tanks and fill them up with propane.

11 Q. So are you aware of any complaints  
12 made to management about the process of  
13 refueling?

14 A. No.

15 Q. We've talked about other fork truck  
16 accidents involving hitting pedestrians. Have  
17 you told me every accident that you recall where  
18 a fork truck might have struck a pedestrian,  
19 every accident that you heard about or was a  
20 party to?

21 A. Well, mainly, I was telling you  
22 about the ones that I had. You know, I didn't --  
23 I didn't go into details about other people.

24 Q. You told me about the accident you

1 had with Nancy Gross where she was bent down and  
2 you couldn't see her and you bumped her with your  
3 fork truck. That was the only one you were  
4 involved in, correct?

5 A. Yes.

6 Q. Were there other fork truck  
7 accidents at the plant at any time that you were  
8 aware of involving a fork truck and a pedestrian?

9 A. No, I can't say other than hearsay.

10 Q. So your accident was in 1989 with  
11 Ms. Gross, correct?

12 A. Right. Yeah, right.

13 Q. Have you heard about any accidents  
14 involving a pedestrian and a fork truck since  
15 1989, just heard about stuff in the plant?

16 A. No.

17 Q. Did you file any grievance related  
18 to your injury or the way you were injured?

19 A. Did I?

20 Q. Yeah.

21 A. No, I didn't.

22 Q. What is the complaint procedure for  
23 safety concerns at the plant?

24 A. Go to your foreman and tell him that

1       you think something is unsafe, you know, and that  
2       -- you know, you point it out to him, and he goes  
3       from there trying to, you know, fix the matter  
4       or...

5               Q.       Aside from going to your foreman,  
6       are there any other ways to raise a concern about  
7       safety?

8               A.       I was -- pertaining to things that I  
9       would do myself, and -- you know, I don't make a  
10      whole lot of complaints to other people, you  
11      know, other than my foreman, or if it was  
12      something pertaining to my foreman and me, then I  
13      go to personnel.

14              Q.       Had you ever raised a safety concern  
15      with your foreman and then had to go to personnel  
16      with the same safety concern?

17              A.       No.

18              Q.       Do you recall raising any safety  
19      concerns to your foreman, anything at all?

20              A.       No.

21              Q.       Do you recall raising a concern with  
22      any safety reps or anybody on the safety  
23      committee?

24              A.       No.

1 A. Right.

2 Q. Any other instances you recall where  
3 you were told by management to do something you  
4 thought was unsafe?

5 A. I can't think of anything right now,  
6 no.

7 Q. Can you refuse to do a job if you  
8 believe it's unsafe?

9 A. I guess you could refuse, but I  
10 never ran into that myself.

11 Q. So in your 31 years, that  
12 circumstance never presented itself to you?

13 A. No, it didn't.

14 MR. BLACK: Off the record.

15 (Off-the-record discussion.)

16 BY MR. BLACK:

17 Q. Mr. Williams, did you contact OSHA  
18 after your accident?

19 A. No, I didn't.

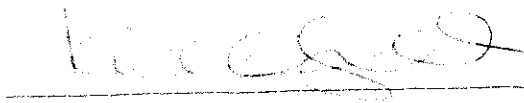
20 Q. Did you take any photographs of the  
21 area after your accident?

22 A. No.

23 Q. What about get any written  
24 statements from other employees or witnesses, did

1 nor is the court reporting firm with which I am  
2 affiliated, under a contract as defined in Civil  
3 Rule 28(D).

4 IN WITNESS WHEREOF, I hereunto set my hand  
5 and official seal of office at Cincinnati, Ohio,  
6 this 10th day of November, 2003.

7   
8 \_\_\_\_\_  
9 My commission expires: Kelly Green  
10 August 9, 2004 Notary Public/State of Ohio  
11  
12  
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23  
24

1       They put two bands on the load, they put a band  
2       around one end, and then they run another band  
3       around the other end.

4               Q.       And that's to make it safe?

5               A.       More safer to carry, right.

6               Q.       And also to protect the product  
7       itself?

8               A.       Protect the people, too.

9               Q.       Based on your years of service with  
10       Heekin, Milton Can Company, BWAY, have you found  
11       the company to be safety conscious?

12              A.       In the last, I'd say, 15 to 14  
13       years, I'd say yeah.

14              Q.       That they have been looking to  
15       improve their safety record?

16              A.       Right.

17                      (Defendants' Exhibit No. 7 was marked  
18       for identification.)

19              Q.       Let's go ahead and show what you  
20       I've marked as Exhibit 7 to your deposition, and  
21       this relates to the incidents in the mid 80's.  
22       If you will, please, take a look at that. I'll  
23       ask you if you've seen that before.

24              A.       (Examining document.) Yes.



1 Q. So you had some complaints about  
2 that?

3 A. Yes.

4 Q. What about forklift operations or  
5 the forklifts themselves, any complaints about  
6 the fork trucks being unsafe other than if a  
7 safety feature wasn't working at the time?

8 A. No.

9 Q. What about complaints about forklift  
10 operation in the plant; ever complain about  
11 forklift operation?

12 A. No.

13 Q. What about complaints about a  
14 particular driver operating a forklift; did you  
15 ever make any complaints about a particular  
16 driver?

17 A. No.

18 Q. Did anyone ever complain about your  
19 driving, other than what we already looked at in  
20 some of these exhibits?

21 A. I'm pretty sure, like, there were  
22 complaints maybe, you know. I don't know who  
23 made them and all that.

24 Q. About your driving?

1           A.     I'm just saying, you know, since you  
2     got the -- you showed that on that record thing.

3           Q.     What?

4           MR. ALLEN:   Anything you know about.

5           A.     No.

6           Q.     Let's talk the day of the accident.  
7     I understand that that wasn't a typical day for  
8     you, correct?

9           A.     No, it wasn't.

10          Q.     That was an inventory day?

11          A.     Ralph asked me would I come in and  
12     work.

13          Q.     This is Ralph Briggs?

14          A.     Yes.

15          Q.     What was his position at the time?

16          A.     I think Ralph was a general foreman.

17          Q.     Now, was he over Luther Smith, if  
18     you know, or what was his relationship to Luther  
19     Smith?

20          A.     At the time, Luther was over there  
21     with him and got Ell -- his name was Ell. His  
22     name was something else, but I called him Ell.

23          Q.     So Ell was your supervisor at the  
24     time in the coil room?

1 A. Yes.

2 Q. What relation to Ralph Briggs was  
3 Ell; was he above Ell or equal to Ell?

4 A. He was just -- he wasn't -- he had  
5 just got there really when they took Luther over  
6 there on the other side.

7 Q. So Luther went over and worked for  
8 Ralph?

9 A. Right.

10 Q. And Ralph, you said, was a general  
11 foreman?

12 A. Yes.

13 Q. And when did he ask you to work  
14 inventory day?

15 A. When did he ask me?

16 Q. When did he ask you?

17 A. When did he ask me? He asked me  
18 that Friday would I come in and work on inventory  
19 with him, and I said okay.

20 Q. Had you worked inventory the day  
21 before?

22 A. I worked inventory about four or  
23 five times.

24 Q. What is inventory day; what is that

1 different areas really. You had assembly, you  
2 had punch press, and you had packaging, and you  
3 had the warehouse.

4 Q. And these people would go around,  
5 and would they have handheld devices where they  
6 punch in numbers, or would they take tickets, or  
7 how would they keep track of the inventory?

8 A. Write it down. Just write it down.  
9 Now, you have tickets you would pull off the  
10 loads and, you know, that would tell you how many  
11 loads of plate that was in the load. And you  
12 would -- say you had one load that was 30,000,  
13 and then you have one load that might have had  
14 only 15 sheets in the load, you know.

15 Q. So the tickets would tell you what's  
16 on the pallet without having to go and count  
17 everything; is that fair?

18 A. That's right.

19 Q. And how often does inventory day  
20 occur? Is it once a year --

21 A. Once a year.

22 Q. As I understand it, there isn't as  
23 much fork truck traffic on inventory day as --

24 A. Right.